

REMARKS

The above-identified application has been carefully reviewed in light of the Office Action mailed June 3, 2009, which included a final rejection of all claims presented. Applicant submits that the amendment and remarks included herein show the present claims to be allowable. Therefore, applicant respectfully requests that this AMENDMENT UNDER RULE 116 be entered and considered on its merits.

Claim 117 has been amended to be dependent upon claim 116.

In view of this amendment to claim 117, applicant submits that claim 117 satisfies the requirements of 35 U.S.C. 112, second paragraph. Therefore, applicant respectfully requests that the rejection of claim 117 based upon this statutory provision be withdrawn.

Claims 106-111, 113, 115, 116, 118, 119 and 121-124 have been rejected under 35 U.S.C. 102(b) as being anticipated by Kanner et al (U.S. Patent 5,431,310).

To reiterate, the present claims recite dispensing assemblies to be coupled to a resilient-walled vessel containing a liquid.

The dispensing assembly of independent claim 106 comprises a neck portion including a sidewall structured to engage an interior wall of a resilient-walled vessel containing a liquid. Thus, the neck portion of the dispensing assembly is configured to be inserted into the open neck defined by the interior wall of the resilient-walled vessel engaged by the neck portion of the dispensing assembly. See the present specification at page 14, lines 25-28 and Figs. 3.

A tip distally extending from the neck portion of the dispensing assembly is provided which includes a distal end and defines a bore positioned to be in direct communication with the

interior of the resilient-walled vessel containing a liquid when coupled to the resilient-walled vessel containing a liquid to provide a linear fluid flow path from the interior of the resilient-walled vessel containing a liquid to the distal end of the tip. A valve is provided at the distal end of the tip. The valve extends substantially co-axially with the bore. The valve is structured to allow drop-wise liquid dispensing from the resilient-walled vessel containing a liquid when the assembly is coupled to the resilient-walled vessel containing a liquid and sufficient manual pressure is applied to the resilient-walled vessel containing a liquid, and to prevent liquid back flow at zero pressure differential and near zero pressure differentials across the valve.

The presently claimed dispensing assemblies enable a user to dispense individual drops, for example, a single drop, rather than streams, of a liquid, for example, a preservative-free liquid. The presently claimed dispensing assemblies are capable of drop-wise dispensing over a broad force range, without the need of flow restrictors or other obstructions in the flow path of the liquid. The presently claimed dispensing assemblies also include features, such as an anti-microbial liner in a cap of the assembly (claim 114) and a filtration member (claim 118) which reduce or eliminate contamination of the liquid being dispensed, making the use of preservatives in the liquid being dispensed unnecessary. Moreover, the dispensing assemblies of the present invention are straightforward in construction, economic to manufacture, and effective and advantageous in use.

In addition, as noted above, the present claims provide a dispensing assembly in which the neck portion of the assembly is structured to engage an interior wall of a resilient-walled vessel containing a liquid. Thus, the neck portion of the

present dispensing assembly is configured to be inserted into and to fit within the space defined by the interior wall of the vessel which is engaged by the neck portion.

Having a dispensing assembly with a neck portion structured to engage an interior wall of a liquid-filled vessel provides substantial advantages. For example, the dispensing assembly, and the overall structure of the dispensing assembly coupled to the resilient walled vessel are advantageously less bulky and more compact relative to a dispensing assembly having a neck structured to be secured and located on the outside of the liquid filled vessel. Also, with a dispensing assembly including a neck portion structured to engage an interior wall of a vessel, as recited in the present claims, there is no need for additional structural features on the exterior surface of the vessel to hold or secure the dispensing assembly to the exterior of the liquid filled vessel.

In short, the present claims recite dispensing assemblies having straightforward designs/structures which are compact, aesthetically pleasing, and provide a high degree of advantageous functionality.

The structure of the neck portion, as discussed above and recited in the present claims, together with a valve structured to allow drop-wise liquid dispensing when the dispensing assembly is coupled to a resilient wall vessel and sufficient manual pressure is applied to the vessel and to prevent liquid flowback at zero pressure differential and near zero pressure differentials across the valve and the other features recited in the present claims are of substantial importance in providing the presently claimed dispensing assemblies with beneficial design appearance, effectiveness and efficiency, reduced manufacturing cost and superior functionality.

The Examiner relies on Fig. 8 of Kanner et al to show a dispensing assembly 110, which the Examiner contends anticipates many of the present claims. Applicant vigorously disagrees for the following reasons.

The Examiner contends that Kanner et al shows a dispensing assembly 110, as seen in Fig. 8, attached to a resilient-walled container 114 by a neck portion 136 engaging the interior of the container's neck.

Kanner et al does not disclose, teach or suggest the present claims. In particular, Kanner et al does not disclose, teach or even suggest a dispensing assembly comprising a neck portion including a sidewall structured to engage an interior wall of a resilient-walled vessel containing a liquid, as recited in the present claims. Despite the Examiner's assertion, Kanner et al plainly discloses that "neck portion 136", which is in actual fact a clamping ring 136, is clamped against a diaphragm support layer 124(e) which is in contact with the annular exterior wall 117 of the container neck 116. In effect, the clamping ring 136 of Kanner et al indirectly engages the exterior wall 117 of the container neck 116. The exterior wall 117 of the container neck 116 of Kanner et al is not an interior wall of a resilient-walled vessel containing a liquid.

Importantly, substantially the entire dispensing assembly disclosed by Kanner et al in Fig. 8 is located outside of the hollow space defined by the interior wall of the container neck 116. The relatively large and bulky structure of cap 132 of Kanner et al, located on the outside or exterior of the container neck 116, is entirely different from, and in direct contrast to, the dispensing assembly recited in the present claims. Moreover, such large and bulky cap 132 disclosed in

Fig. 8 of Kanner et al is aesthetically less pleasing than the dispensing assembly recited in the present claims, requires engagement features on the outside of the container neck to attach the cap 132 to the outside of the container neck (which are not needed with the presently claimed dispensing assembly), and does not function in dispensing liquid, as recited in the present claims.

In view of the substantial differences, distinctions and contrasts between the present claims and Kanner et al, for example, as noted above, applicant submits that Kanner et al does not anticipate the present claims, does not teach or even suggest the present claims, and, in fact, actually teaches clearly, directly and expressly away from the present claims.

In view of the above, applicant submits that Kanner et al does not anticipate and does not make obvious any of the present claims, in particular, claims 106-111, 113, 115, 116, 118, 119 and 121-124 under 35 U.S.C. 102(b) and 103.

Claims 112 and 120 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kanner et al. Claims 114 and 117 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Kanner et al in view of Ryder et al (previously cited). Applicant traverses each of these rejections as it pertains to the present claims.

The disclosure and deficiencies of Kanner et al have been discussed in detail above, and are resubmitted here.

Like Kanner et al, Ryder et al discloses a system in which a cap-type structure including a nozzle surrounds and is secured to the exterior of a liquid container. This is in direct contrast to the present claims, for example, as discussed above with regard to Kanner et al.

In addition, as discussed in previous responses to Office Actions in the above-identified application, Ryder et al has other substantial deficiencies with regard to the present claims. These previous discussions regarding Ryder et al are resubmitted here.

In short, both Fig. 8 of Kanner et al and Ryder et al involve designs based on a dispensing assembly positioned on and secured to an exterior surface of a liquid-containing vessel, and are in direct contrast to a dispensing assembly comprising a neck portion including a sidewall structured to engage an interior wall of a resilient-walled vessel containing a liquid, as recited in the present claims. Neither Kanner et al nor Ryder et al provide one of ordinary skill in the art with any motivation or incentive or any other reasonable or rational basis or any common sense basis for combining the teachings of these references for the purpose of making obvious the present claims. One of ordinary skill in the art is provided with no basis whatsoever for combining the deficient teachings of Kanner et al and Ryder et al in an attempt to construct the dispensing assemblies of the present claims. This is particularly so, since both Kanner et al and Ryder et al actually teach away from and are in direct contrast to the present claims.

In view of the above, applicant submits that the present claims, and in particular, claims 112, 114, 117 and 120 are unobvious from and patentable over Kanner et al and Ryder et al, taken alone or in any combination under 35 U.S.C. 103(a).

Each of the present dependent claims is separately patentable over the prior art. For example, the prior art does not disclose, teach or suggest the dispensing assembly of any of the present claims including the additional feature or features recited in any of the present dependent claims. Therefore,

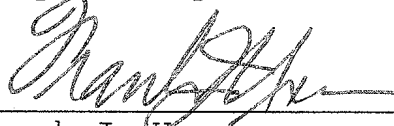
applicant submits that each of the present claims is separately patentable over the prior art.

In conclusion, applicant has shown that claim 117 satisfies the requirements of 35 U.S.C. 112, second paragraph, and that the present claims, that is claims 106-124 are not anticipated by and are unobvious from and patentable over the prior art under 35 U.S.C. 102(b) and 103(a). Therefore, applicant submits that the present claims are allowable and respectfully requests the Examiner to pass the above-identified application to issuance at an early date. Should any matters remain unresolved, the Examiner is requested to call applicant's attorney at the telephone number given below.

Date: _____

8/3/09

Respectfully submitted,



Frank J. Uxa
Attorney for Applicant
Registration No. 25,612
4 Venture, Suite 300
Irvine, California 92618
(949) 450-1750
(949) 450-1764 Facsimile